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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/579,630

05/26/2000

Robert McKinnon JR.

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06/16/2004

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EXAMINER

ELOSHWAY, NIKI MARINA

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 06/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/579,630

Applicant(s)

MCKINNON, ROBERT

Examiner

Niki M. Eloshway

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7,9-13,15-35,37-40,42-44,47 and 58-75 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

- 6) ☒ Claim(s) 1-7,9-13,15-35,37-40,42-44,47 and 58-75 is/are rejected.

- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 38, 43 and 47 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 38, 43 and 47 are considered vague and indefinite because they are dependent on cancelled claims 36, 41 and 45. Therefore, the metes and bounds of the claims cannot be ascertained.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 3-6, 12, 15-21, 23-25, 37, 39, 40, 58-66, 68, 69, 71, 72, 74 and 75 are rejected under 35 U.S.C. 102(b) as being anticipated by Grisch (U.S. 4,302,499). Grisch teaches a compression molded article, which may have recesses, as shown in figure 10. Depending on the dimensions, the article may withstand a load of at least 8000 pounds.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grisch (U.S. 4,302,499) in view of Bonnema et al. (U.S. 4,726,490). Grisch discloses the claimed invention except for the wedges and except for the article being planar. Grisch does teach that the article could have numerous applications. Bonnema et al. teach that it is known to provide a planar article with wedges (see elements 45). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the article of Grisch being planar and having wedges, as taught by Bonnema et al., in order to securely fasten the article in position and allow it to be used where planar segments are needed.

7. Claims 9 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grisch (U.S. 4,302,499) in view of Bonnema et al. (U.S. 4,726,490). Grisch discloses the claimed invention except for the article being planar. Grisch does teach that the article could have numerous applications. Bonnema et al. teach that it is known to provide a planar article. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the article of Grisch being planar, as taught by Bonnema et al., in order to allow it to be used where planar segments are needed.

8. Claims 22 and 26-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grisch (U.S. 4,302,499). Grisch discloses the claimed invention except for the triangular shaped recess. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the article of Grisch with a recess having two triangular shaped surfaces, in order to give the article a more decorative appearance.

9. Claims 42 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grisch. Grisch discloses the claimed invention except for the density of the material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the article

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of Grisch with the density of the material being in the range of .938-.942, since it has been held that “where the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation.” *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955).

10. Claims 67, 70 and 73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grisch. Grisch discloses the claimed invention except for the thickness of the article. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the article of Grisch with the thickness being at 1.5 inches, since it has been held that “where the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation.” *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955).

### ***Response to Arguments***

11. Applicant's arguments filed April 8, 2003 have been fully considered but they are not persuasive. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

12. **THIS ACTION IS MADE NON-FINAL.**

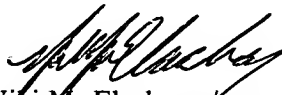
13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art is cited for the compression molding of the article.

14. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703)305-3579. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants

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who authorize charges to a USPTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into group 3720 will be promptly forwarded to the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Niki M. Eloshway whose telephone number is (703) 308-1606. The examiner is in the office on Tuesdays and Fridays. Any inquiry of a general nature or relating to the status of this application should be directed to the 3700 Customer Service Office at (703) 306-5648.

  
Niki M. Eloshway/nme  
Patent Examiner  
June 11, 2004